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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/771,448	02/05/2004	Othmar Hayoz	032498-021	3827

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EXAMINER	
LAZORCIK, JASON L	
ART UNIT	**PAPER NUMBER**
1731	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/07/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/771,448	HAYOZ ET AL.	
	Examiner	Art Unit	
	Jason L. Lazorcik	1731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *05 February 2004 and 12 January 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-22* is/are pending in the application.

4a) Of the above claim(s) *10-22* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-9* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *05 February 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *02/05/2004*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

Applicant's election with traverse of Group I, Claims 1-9 Drawn to a method for producing a glass body in the reply filed on January 12, 2007 is acknowledged. The traversal is on the ground(s) that a search for the subject matter of Group I and Group II does not constitute a serious burden upon the Office. This is not found persuasive because Applicants argument does not point out all of the supposed errors in the restriction requirement.

Specifically, MPEP 803 states:

"For purposes of the initial requirement, a serious burden on the examiner may be prima facie shown if the examiner shows by appropriate explanation of separate classification, or separate status in the art, or a different field of search as defined in MPEP § 808.02.

In light of the above, it is the Examiners position that Applicants arguments do not overcome the fact that the claimed inventions have found different status in the Art as evidenced by a different classification for each of said claimed inventions. For at least these reasons, an examination of the application as presented would necessitate divergent fields of search and would therefore constitute a serious burden upon the Office

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation in lines 3-4 wherein a dip tube is inserted "with respect to a position of its lower end" into a mount. It is unclear first what element applicant intends as the antecedent basis for the term "its", and further it is unclear how applicant intends to further limit the inserting step by the reciting said limitation.

Claim 1 also sets forth the limitation in lines 9-11whereby the "lower end position" is defined by means of an adjustment device and or a control device, and that said definition is "based on a previously ascertained suitability of the gob for processing". The limitation as set forth particularly wherein the basis is reliant upon the "ascertained suitability of the gob for processing" is unclear and indefinite. As such, the particular metes and bounds for which applicant is seeking patent protection are rendered unclear and indefininte.

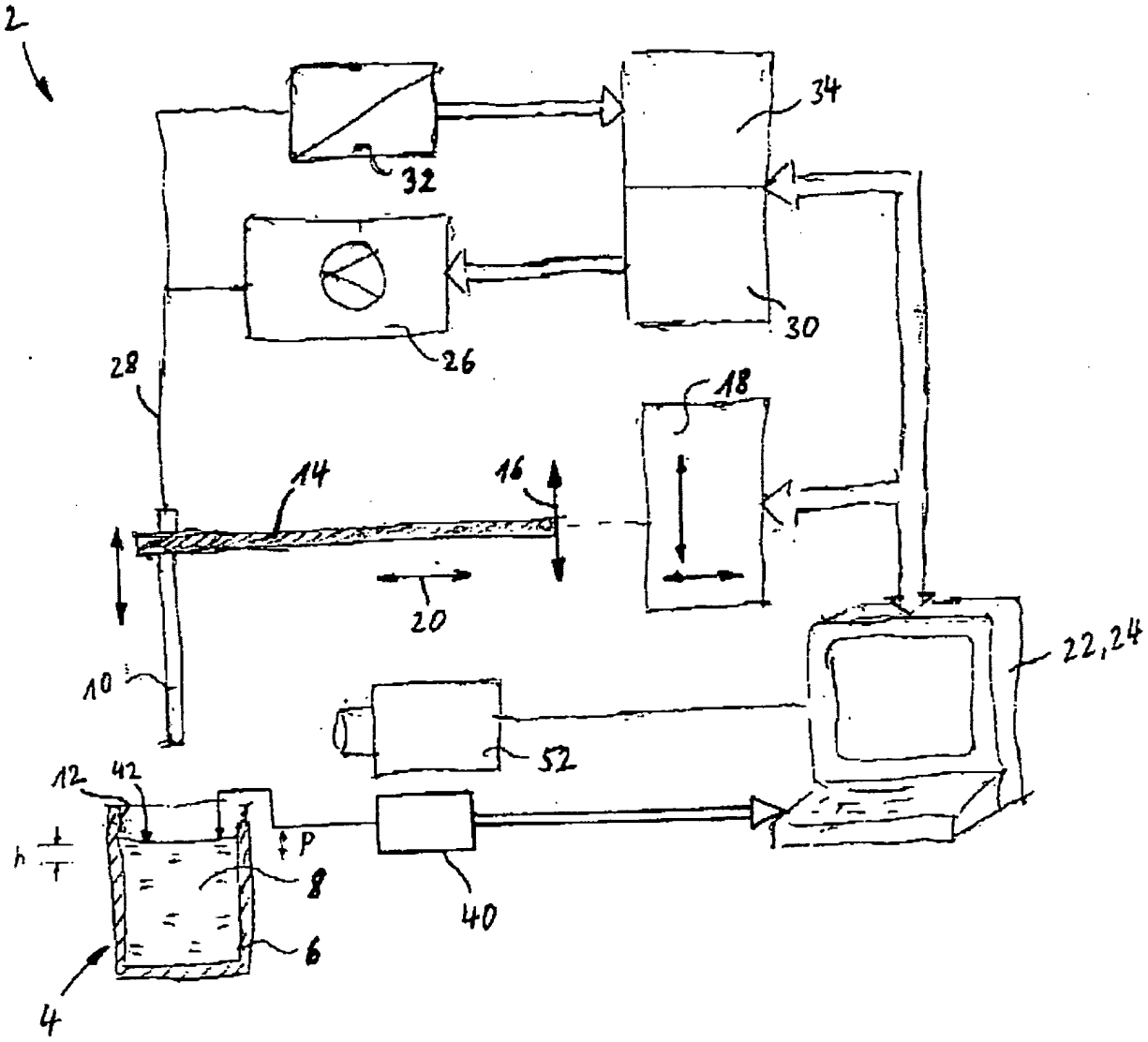
Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 3, 4, 7, and 8 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Auras (DE 101 16 075 – Note: US 2003/0056539 A1 is here utilized as an English language equivalent to the German document). With particular reference to the instant reference Figure 1 (excerpt presented below), Auras teaches a method for manufacturing a glass body whereby a "dip tube" (10) is inserted into a mount (14) joined to a displaceably supported carriage (18). The reference teaches a means for adjusting the "lower end position" of the carriage which is predetermined in accord with the level of molten glass remaining in the melting pot (**Claim 2**). The dip tube is extended into the meld by lowering the carriage (18) to a lower position, and upon extraction from the melt, a molten gob of glass pulled from the melt by the dip tube is blown into the desired final shape of the glass body.

In the disclosed process (¶ [0038]), both the lower end position of the carriage and the blowing pressure in the blowing step are controlled utilizing "an adjustment device and/or a control device" (e.g. a computer) as claimed (**Claims 7-8**) with feedback provided by an imaging system. Specifically the reference teaches that "repeated immersion and withdrawal of the immersion tube reduces the amount of the available molten glass" and that "the invention therefore proposes determining the position of the surface of the molten glass in the adjustment direction of the immersion pipe using techniques known per se" (¶[0008]). The required positioning of the dip tube is monitored via an image recording device, and the image data is utilized in a "image

processing device " (**Claim 3**) in order to provide the appropriate automated control over the process (¶[0026]). Additionally, the instant reference provides for an induction coil heater (¶[0031) which is understood to be guided towards at least a portion of the dip tube during the immersion operation and which thereby effectively heats the dip tube for a predetermined length of time (**Claim 4**).



Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Auras (DE 101 16 075) as applied under 35 U.S.C. 102(b) to claim 1. Although the Auras reference is silent on the claimed feature of an automatically retractable "cover element", such an element would have been an obvious addition to the Auras disclosure for one of ordinary skill in the art at the time of the invention. A cover element or lid placed over the molten glass would be recognized by one of ordinary skill as an obvious approach to prevent escape of heat by convective or radiation processes from the surface of the molten glass. Consequentially, one of ordinary skill in the art would have been motivated to install such a cover element as an obvious means of reducing the utility costs associated with maintaining the glass in the molten state. Further, where the Auras process is directed towards a substantially automated procedure, one of

ordinary skill in the art would have likewise found ample motivation to automate the cover element retraction in order to maintain a substantially automated process.

Claims 5 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Auras (DE 101 16 075) as applied under 35 U.S.C. 102(b) to claim 4 and claim 1, respectively, in further view of the teachings of Williams (US2,247,424).

Wiliams (US 2,247,424) relates a fundamental teaching in the art of gathering glass by means of a "punty" or gathering head. Specifically, the instant reference teaches that it is well known in the art of hand working glass to rotate the "punty" along the long axis of the device as well as to swing said device or "jiggle" it in an angle out of the vertical position. These actions are performed in order to maintain the uniformity of the glass charge on the punty or alternatively stated to prevent said charge from deforming and dropping off of the punty surface. One of ordinary skill in the art at the time of the invention would certainly have appreciated the functional similarity between the old techniques associated with gathering molten glass with the punty and gathering a glass gob with a dip tube as set forth in the instant application. Specifically, although the Auras reference is silent regarding imparting a rotating action to the dip tube, it would have been obvious to one of ordinary skill in the art to implement a rotating motion both during immersion of the dip tube as well as after withdrawal of the glass gob from the melt. This rotation action would have been an obvious addition to the Auras apparatus for anyone seeking to maintain a uniform gob on the tip of the dip tube. In light of the prior art as set forth above and absent any compelling and unexpected results to the contrary, the limitations set forth in claims 5 and 9 regarding rotating the

mount and/or dip tube are insufficient to patentably distinguish the instant invention over the prior art as taught by Auras.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason L. Lazorcik whose telephone number is (571) 272-2217. The examiner can normally be reached on Monday through Friday 8:30 am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on (571) 272-1189. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

STEVEN P. GRIFFIN
SUPERVISORY PATENT EXAMINER
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JLL